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OFFICE OF PETITIONS

In re Application of :
Richard Schmidt :
Application No. 09/490,175 : DECISION ON PETITION
Filed: 22 January, 2000 :
Atty. Docket No. P-8824 :
:

This is a decision on the petition filed on 14 October, 2005
(certificate of transmission date 9 June, 2003), under 37 CFR
1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on 17 September, 2002, for failure to timely the issue fee, as required by the Notice of Allowance and Fee(s) Due, and corrected drawings, as required by the Notice of Allowance, both mailed on 14 June, 2002, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 22 October, 2002.

Petitioner has submitted both authorization to charge the issue fee and corrected drawings.

As petitioner has shown that the petition was filed on 9 June, 2003, the petition and issue fee(s) in effect at that time, \$1,280.00 each, will be charged to counsel's deposit account, No. 13-2546.

This application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.



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